

REMARKS

The Final Office Action of June 12, 2008, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 21, 37, 51, 53, 55, 57 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kirita* (U.S. Patent No. 6,659,672) in view of *Takanashi et al* (U.S. Patent No. 6,428,235) and *Madaus et al.* (U.S. Patent No. 4,979,840). Claims 21, 37, 51, 53, 55, 57 and 59 were also rejected under Section 112, first paragraph. For at least the reasons set forth below, Applicant respectfully traverses these rejections.

With respect to the rejections under Section 112, claim 21 as amended recites that the ink guiding feed prevents outside air from flowing in. When the ink is exhausted, the ink guiding feed is filled with the air from the occlusion body and can be visually observed to be a hollow (empty) tubular body, as described in claim 59. Applicant respectfully submits that these amendments are supported by the descriptions in lines 20 to 22 on page 21, lines 18 to 20 on page 14, and lines 14 to 15 on page 20. Accordingly, Applicant submits that the rejections under Section 112 have been obviated.

As amended above, claim 21 includes an ink guiding feed having visibility which is tubular and is disposed between the ink occlusion body and the pen tip in the barrel and prevents outside air from flowing in. A sign of exhausting the ink fed from the ink occlusion body is detected by visually observing the empty ink guiding feed via a visible part formed in the barrel. Thus, the writing instrument of Claim 21

defines a structure in which ink is filled into the pen tip without the use of air by disposing a hollow tubular ink guiding feed (which has little or no capillary force) between two members that have capillary force, i.e., the ink occlusion body and the pen tip. Applicant submits that such a structure would not be obvious based upon conventional writing instruments which use capillary force in successively disposed members, from an ink storing part to a pen tip, through all of which there is capillary force.

The primary reference upon which the Examiner relies, Kirita, discloses a pen element configured of a support member 11 and an ink leader portion 12 (column 5, lines 26 to 28). The support member is made up of transparent material and composed of a viewer portion 11a and a shank portion 11b to provide a clear view in the writing direction through the portion (column 5, lines 31 to 41). The support member does not serve as an ink lead portion, but supports the ink leader portion and a writing part. The ink leader portion 12, the ink leader shank part 12a and the writing part 13 are formed of a porous material (column 5, lines 45 to 50) which apparently has capillary force for the ink so that a wet part and a dried part can not be visually observed. Therefore, it does lead to detection of a depletion of the ink.

Thus, the writing implement in Kirita is provided with an ink absorbing element (101), an ink leader portion 12, and a writing part 13 all of which have capillary force, whereas the writing instrument of the present invention has a hollow tube filled with ink (and no capillary force) disposed between two members having capillary force, as recited in claim 21. Further, exhaustion of the ink in Kirita can not be detected by observing an *empty* tubular member.

The Examiner further alleges that Takanashi discloses an analogous writing instrument which includes a barrel (12) and an ink guiding feed (18) made out of transparent material. However, Takanashi does not define the member 18 as an ink guiding feed. Rather, it is a collector. A collector is a member which temporarily retains ink when the ink stored in an ink tank spouts with increased pressure due to temperature rise. The leaked ink returns to the ink tank when the pressure in the ink tank is decreased due to consumption of the ink or temperature drop. The ink flow proceeds in the following order: the ink tank 16 - an intermediary core 24 - a pen core 10. Therefore, what is being observed in the collector is the leaked ink, not the consumption of the ink. Applicant submits that the modification of the primary reference proposed by the Examiner would not suggest the claimed invention to one skilled in the art.

Further, when the collector of Takanashi is made of a transparent material, the intermediary core 24 can be seen. However, since the intermediary core is made up of a compressed fabric (column 7, lines 59 to 62) which has capillary force for the ink, an outside observer still will not be able to detect an *empty* member.

Further to earlier conversations with the Examiner, Applicant would like to renew their request for a personal interview prior to further action on the merits. The undersigned counsel for Applicant will telephone the Examiner shortly to arrange for the same.

CONCLUSION

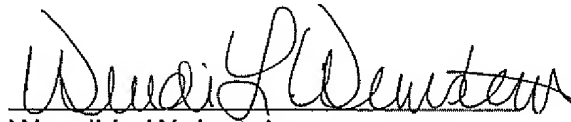
In view of the above amendments and remarks, Applicants respectfully submit that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: October 10, 2008

By:

A handwritten signature in dark ink, appearing to read "Wendi L. Weinstein", written over a horizontal line.

Wendi L. Weinstein
Registration No. 34456

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620